

## **Social and Economical Rights of Female in Islam, Legislation & Implementation in Pakistan.**

**Naseem Tahir\***

“O ye believe! Enter in to Islam whole heartedly; and follow not the foot steps of the evil one; for he is to you an avowed enemy.”<sup>1</sup>

Islam has deep concerned to the basic human rights. A systematic arrangement has made for the economic, social and cultural rights of man. Islam has used these rights as legal orders. It supported them with all the legislations that are needed to ensure their implementation. Neither the provisions of the universal declaration of human rights, nor the International Covenant of economic, social and cultural rights have gone so far as Islam. They remained as moral recommendations not guaranteed by any legal safeguards. Under Islamic legal system these rights constitute imperative obligations and must be enforced by legislative and executive guarantees.

Islam declares the equality of male and female in these rights. This equality based on the doctrine that man and female has the same human nature. Relations between man and woman are characterized by reciprocal rights and obligations, except for the obligation incumbent on men to assume leadership of the family and to provide for the expenses. It is stated in the Qur'an: "And they (women) have rights similar to those (of men) over them in kindness and men are a degree above them"<sup>2</sup> We know that Islam introduced historic radical changes in favor of women in the legal domain. Prior to Islam, many Arab tribes took women as an object only and treated them with disgraced manners. More over it, they being buried alive at the moment of birth. When news of birth of any female brought to any of them, he felt sorrow and grief. He tried to hide himself from the people because of such bad news. Qur'an expresses it: "And when the girl-child who was buried alive, ask: For what sin she was killed?"<sup>3</sup> In those dark days, Islam placed the question of women among the first human problems, which Islam resolved with extreme courage, firmness and certainty. Islam lifted women from the lowest condition to the highest level of social hierarchy and gave her

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<sup>1</sup> 2: 208.

<sup>2</sup> 2: 28.

<sup>3</sup> 81:31.

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entire capacity to be equal to men. By saying that women are the sisters of men, Islam acknowledged her full capacity in the exercise of rights whether social or economical.

The clash arises between inherited principles of Islam and practical situation of Muslim women in contemporary period. Practically it is considered that Islam required keeping women in a subordinate position in every sphere of her life. Is this subordination of Muslim women is required by Islam or it is just a product of corrupt influences and social customs? We have a lot of writings. Lectures, seminars and number of conferences held on the status of women in Islam. Similarly, we have some strong legislation in favor of women. But unfortunately, we don't find its practical implementation in our society. What are the reasons behind this unpractical attitude towards women and what are its effects on our strong family system of Islam. ? Man and Woman are equal regarding their accountability before Allah Almighty. Both are equally responsible for their duties before Allah Almighty. God declares in Qura'n:" I have only created *Jinns* and *Ins* (man & woman), that they may serve me."<sup>4</sup> Similarly, woman is also responsible and under obligation to preach for good and to prohibit from bad things. It is stated in Qur'an:" Let there arise out of you a band of people inviting to all that is good, enjoining what is right and forbidding what is wrong: They are the one to attain felicity."<sup>5</sup> Without education and exposure woman cannot be able to preach. On the other hand, some of our so called scholars are not in favor of higher education for female. Should we stop the education for women so that they may not get awareness regarding their rights provided by Islam? To learn and to get education is the primary duty of every Muslim. The Holy Prophet Peace be on Him made education an obligation irrespective of sex and grade. The current situation of Muslim female draws the intention of developed western countries to challenge the capacity of Islam regarding the rights of female. Our scholars are always in defending position to defend that Islam gives equal rights to male and female. In the presence of a rich and unmatched history about the status of female, it is moment of pondering intention why we fail to prove it? Why are we being blamed by others for inequality and injustice between these two sex.

During last years, many conferences held between European jurists and Saudi Canonists on Moslem Doctrine and Human rights in Islam, in these conferences it was declared by Muslim Jurists:

That education includes all types of education, scientific and technical, etc. Because the Qur'an considers science as conducive to the knowledge and adoration of God and to the prosperity and peace of the world. All these principles are designated as "call to life" in Islam, where religion is

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<sup>4</sup>51:56.

<sup>5</sup> 3:104.

tied to education and also to mind and reason. There is no difference between man and women in this concern. Woman has full capacity to enjoy all social; cultural rights for instance the right to property, sale, purchase and marriage without any guardianship and restriction whatsoever. In this, Islamic law goes much further than much legislation in the modern world.<sup>6</sup>

Then where is the problem? I think this is matter of understanding & implementation. Here my point of view is that now some onus lies on men to understand and to implement these rights of female at their home. By becoming educated being woman now a day, has awareness regarding her rights. Now it is difficult to suppress her or to exploit her in the name of Islam.

The rapid increment in the ratio of divorce and separation cases in Pakistan should be taken seriously. Islam has clear provisions regarding the freedom of female to enjoy and to exercise all rights, for instance the right to property, sale, purchase and marriage without any guardianship and restriction whatsoever. Then our constitution and other legislation are also in favor of female. But practically, in Pakistan a female cannot even think to sale, purchase or to get married without any guardianship. If she does so, she calls her death or life worst than death. Is this an Islamic version? Has God created women only to serve man and there is no other purpose of her creation in this universe? How lucky a man is? In fact our Muslim Jurists started to confine Muslim women to home only by way of blocking the lawful means to avoid unlawful result. Here I would like to quote Imam Ibn Taimiyyah:

Do not see only the harm of *Mufsidat*/avoidable circumstances which demands prohibition, see also its necessity which leads to permissibility and more to obligatory... what is prohibited by way of blocking the lawful means to avoid unlawful result, to be solved by way of preferable interest... for example, traveling of woman alone, to see towards a woman and loneliness with a woman are prohibited by this way because these cause harm/*Fasad*. But if any one of them leads towards benefit/interest, then it will not cause harm. This is the principle of *Shariah* that when interest and harm contradict each other, then the more preferable will prevail.<sup>7</sup>

This Article aims to give a short description of all these issues related to the economical and social rights of female, her problems and some suggestions to solve. First of all I will explain these rights in Islamic perspective. Let me explain what is concept of right in Islamic Law. The word right literally has many meanings; it is used in the sense of opposite to wrong, it is also used in the meaning of proof and obligation. It is said: you are under obligation to do so.<sup>8</sup> It is also used to declare a person entitle for something. It is stated in Qur'an: "And

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<sup>6</sup>These conferences held in Riyadh, Paris, Geneva and Strasbourg between Saudi Canonists and European Jurists and Intellectuals. see, Conferences on Moslem Doctrine and Human rights in Islam (Riyadh: Ministry of Justice, n. d.) pp.166-167

<sup>7</sup>Majmua' Fatawa Ibn-e-Taimiyyah, 23:186-188.

<sup>8</sup>Ibn Manzur, Muhammad b. Mukarram b. Ali, *Lisan al-Arab* (Bairut: Dar Sadir, 1300AH) 11:333; Ibn-e-Kurra', Abu al-Hussain Ali b. Hassan al-Hannai, *Al-Munjad fi al-Lugha* (Bairut: Dar-ul-Kutab al-Arabi, 1989) p.133; Mu'jam al-Wasit, 1:187.

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they are more entitle and worthy of it.”<sup>9</sup> This word *Haq* has been used in many places in the *Qur'an* in the meaning of proof and obligation. It is stated in *Qur'an*:” Each of them rejected the Apostle and My warning is proved/dully fulfilled for them.”<sup>10</sup> Again it is stated in *Qur'an*:” And in their wealth, the right of the needy.”<sup>11</sup>

Technically, it means any thing proved and acknowledged by *Shariah* in favor of human being.<sup>12</sup> The other thing that is related to human being is concept of duties. Infact rights have corresponding duties. These rights and duties have been created and bestowed to human being by Allah Almighty, Who is the creator of the whole universe. By granting these rights to human being, God intended to provide ease and to facilitate him during the course of life. It is the requirement of the dignity of human being to respect him and to let him free to act according to the limitation imposed on him by *Shariah*. God declares in *Qur'an*:” We have honored the sons of Adam; provided them with transport on land and sea: given them for sustenance things good and pure; and conferred on them special favors above a great part of our creation.”<sup>13</sup> This verse shows that this distinction and honor conferred on man are recounted in order to enforce the corresponding duties and responsibilities of man. He has been granted talent to use and to grow his personality. Then his spiritual faculties raise him above the greatest part of God's creation. Another aspect of these rights and duties is that God intended to examine the capability of human being in this world. He wants to Judge, how the human being uses his talent and other qualities? How he prepare himself to face the Day of Judgment? It is stated in *Qur'an*:” He who created death and life that He may examine to which of you best indeed.”<sup>14</sup> The most important purpose to grant these rights is to attain interest ( *masalah*) of human being that is the repulsion of harm and the attainment of benefits. Imam Shatibi said:” The purpose of Legislation in Islamic law is to provide benefits for people in this world and in the world hereafter.”<sup>15</sup> To protect these rights, *Shariah* imposed on people to respect each other and prohibited them from intervening in the rights of others. If anyone of them hurt the rights of other, he becomes entitle for punishment. To protect the rights of others, Islam issues conditions and limitations. Human being is bound to enjoy with his rights according to these conditions. Here he is not permitted to exceed and to misuse of these rights. Infact this is the point to think

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<sup>9</sup> 48: 26 .

<sup>10</sup> 50: 14 .

<sup>11</sup> 51: 19.

<sup>12</sup> Dr. Abdul Karim Zaidan, *Al-Wajiz fi Usul al-Fiqh* ( Bairut: Al-Risalh Publishers,n.d.)

pp. 23-24.

<sup>13</sup> 17:70 .

<sup>14</sup> 67:2.

<sup>15</sup> Al-Muwafiqat, 2:6

and to accountable one self. Thus the basic purpose of Islamic legal system is to remove pain and to gain benefits for people. Qur'an states: "Allah intends every facility for you, He does not want to put you to difficulties."<sup>16</sup> Then *Shariah* has prescribed certain rules in case of contradiction between these benefits. The general rule is that the stronger interest shall prevail over the weaker. e.g. the public interest is given preference over private interest. The definitive interest will prevail over the probable interest, etc. Thus Muslim Jurists presented a balance framework to exercise the rights and duties of human being.<sup>17</sup> It has become clear by this discussion that right means something proved and admitted by Lawgiver. Does a prudent woman require permission to exercise her basic rights? In our society every intention is given only to survive her up to the extent of basic needs e.g. food, cloth and shelter. What about her social and cultural rights? In this section I will discuss these rights in the light of Qur'an and *Sunnah*.

### **Social & Economical Rights of Female in Shariah Perspective.**

Islam has envisaged a progressive emancipation of women. According to the provision of Qur'an man and female are equal in nature and in humanity. Both are created from a single person. As Qur'an states: "O mankind! Reverence your Guardian-Lord, Who created you from a single person, created of like nature, his mate and from them twain scattered countless men and women"<sup>18</sup>

On another occasion, Qur'an states: "And Allah has made for you mates of your own nature..."<sup>19</sup> In these verses it is clearly mentioned that male and female has similar nature. These also applied to bundle of attributes, capacities, predilections and dispositions which may sum up in the word nature or Nafs. Women has been made to be a companion of man, having the same nature (except of sex) and therefore with the same moral and spiritual rights and duties.<sup>20</sup> Hence, it has been clear by theses verses that women should not be considered soulless having no intellect, no desires and no power to decide the matters. A woman is responsible with man to preach and to perform worships on equal basis; here man does not come to share with her responsibilities, why she is being deprived to exercise her economic and social rights? Qur'an states; "The believers, men and women are protectors of each other: They enjoin what is just and forbid what is evil: they observe regular prayers, practice regular charity and obey Allah and His

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<sup>16</sup> 2:185.

<sup>17</sup> Al-Ghazzali, Abu Hamid, Mhammad b. Muhammad, *Al-Mustasfa'* (Egypt: Al-Matba' al-Amiriyah, 1322AH) 1:303; Al-Shatibi, 2:357.

<sup>18</sup> 4:1.

<sup>19</sup> 16:72

<sup>20</sup> Al-Nasafi, Abdullah b. Muhammad, *Tafseer al-Nasafi* (Bairut: Dar al-Kitab al-Arabi, n.d.) 1:204; Abdullah Yousaf Ali, *Translation & Commentary of Holy Qur'an* (Lahore: Sh. M. Ashraf, 1980) p.675.

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apostle.”<sup>21</sup> Woman is equally entitled for any crime committed by her as God says in Qur'an:” The woman and the man guilty of adultery flog each of them with a hundred stripes.”<sup>22</sup> Then general nature of Islamic laws also made it clear that man and woman are equal in exercising their rights. Islam came for all human being, man and woman. Qur'an states:” Say: O men! I am sent unto you all, as the apostle Allah.”<sup>23</sup> Muslim Jurists are agreed that woman is included in this word *Al-Na's*.<sup>24</sup> However there are certain differences between these two sex, based on the *Manat* of *Hukm*. A prudent man and woman are equal regarding obligations. Similarly, they are equal in their basic and fundamental rights, whether these rights relevant to spiritual aspect or social and economical structure of a society.

The base of these rights and duties is humanity and prudence. Islam declares getting knowledge as an obligation for both male and female. Woman has equal right to get education whether religious or scientific. Here question arises, for getting education, is she required permission from her guardian? Does she need permission to perform worship? Then her right to do work or to adopt any permissible profession is also an issue which requires balance behavior of society. Then her status at home is also discussable. Is she possesses any right to respect and to consult from her husband? To answer these question the status and role of women can be divided into two types, her gobs at home and gobs outside home.

### **a. Status of woman at home.**

Islam has lifted women from the lowest condition to the highest level by declaring that paradise is under the foot of mother. Recognizing the difference of her sex with male, Islam encourages women to stay at home and to perform the divine duty that is the grown up of children under her kind supervising. Here Islam does not make her responsible to earn and to maintain herself and her children. This is the responsibility of father to struggle, to earn and to maintain his family. Family in Islam is considered a unit of social system. In this setup, man is head and he is responsible to maintain and to train his family. God says: “O ye who believe! Save yourselves and your families from a fire whose fuel are men.”<sup>25</sup> This is because of his physical constitution, which make him more capable of shouldering these responsibilities in the interest of the whole family. Thus Islam ties a strong relationship between two individuals by way of marriage and made it a source of reproduction. Qur'an mentions this blessing of God by saying: “And Allah has made

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<sup>21</sup> 9: 71.

<sup>22</sup> 24: 2.

<sup>23</sup> 7:158.

<sup>24</sup> Al-Shukani, Muhammad b. Ali b. Muhammad, *Irshad al-Fuhul* (Cairo: n.p.1356AH) pp.110-111.

<sup>25</sup> 66:6.

for you mates of your nature, and made for you out of them, sons and daughters and grand children and provided for you sustenance of the best.”<sup>26</sup>

Holy Prophet Peace be on Him said:” Every one of you is a protector and will be asked about his subject, Father is protector of his family and will be asked about it, and female is protector of the wealth of her husband and father and will be asked about it, and servant is protector of the property of his master and will be asked about it, Oh, listen, every one of you is a protector and will be asked about it”<sup>27</sup> Here Islam gives her equal status as that of man. According to this Hadith, woman is responsible only to look after her children and the property of her husband. She is also required to be obedient to her husband. Qur’an states:” Therefore the righteous women are devotedly obedient, and guard in absence, What Allah would have them guard.”<sup>28</sup>

To declare man as *Qawwam*/head does not mean that man is superior to woman in his rights and can enjoy unlimited rights, but this declaration is just an announcement that by becoming *Qawwam*, man is under heavy duties toward his family. God says in Qur’an:” Men are protector and maintainers of women. Because Allah has given the one more strength than the other and because they support them from their means.”<sup>29</sup> To enjoy his conjugal rights, God has ordered him to pay dower to his wife. Qur’an states:” And give women their dower as free gift, but if they of their own pleasure, remit any part of it to you, take it and enjoy it with right good cheer.”<sup>30</sup> Islam emphasizes, a man must have true and universal relationship with Allah and His creation. The reason is that the society cannot yield best result unless the man has a firm commitment to God and toward this entire creation. Islam’s primary focus is on the individual and his action in this world. To protect and stabilize the individual, Islam has established a complete social order of development. Similarly, Islam makes a husband bound to maintain his wife. Islam gives her right for cancellation of marriage, if husband does not spend on her.<sup>31</sup> Another duty of man toward his wife is good behavior and kindness to her. Qur’an states:” And live with them on a footing of kindness and equity. If you take a dislike to them, it may be that you dislike a thing and Allah brings about through it a great deal of good.”<sup>32</sup> And Holy Prophet said:” Best among believers, who is best for

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<sup>26</sup>16:72

<sup>27</sup> Imam Bukhari, Muhammad bin Ismael bin Ibrahim, *Sahih al-Bukhari* (Lahore: 7, Aibak Road, New Anarkal, n.d.) Kitab-al-Juma, Bab al-Bir wa al-Silah, 1:11

<sup>28</sup> 4: 34.

<sup>29</sup> 4: 34.

<sup>30</sup> 4: 4.

<sup>31</sup> This discussion in detail is found in *Al-Mufasssil fi Ahkam al-Mar’at wa Bait al-Muslim*, by Dr. Abdul Karim Zaidan (Bairut: p.o.Box, 117460, 1997) 4:145-326; Dr. Umar Suleman Al-Ashqar, *Ahkam al-Ziwaj fi Daw al-Kitab wa al-Sunnah* (Bairut: Dar nafais li al-Nashr, 1997) pp.279-286.

<sup>32</sup> 4: 19.

female.”<sup>33</sup> It is also reported that Holy Prophet said:” Best among you who is best for his wife, and I am best of you for my wife.”<sup>34</sup> Another right of woman is to have confidence of husband and positive thinking about her. It is this reason that Holy Prophet prohibited His companions to enter home at once and without information of women, if they return from journey. It is reported that Holy Prophet said:” When any one of you return back from journey, he should not enter at night.”<sup>35</sup> This is also right of woman not to obey husband in prohibited things of *shariah*. If he orders for *haram*, she will not obey him. Holy Prophet said:” Do not obey for forbidden things, verily obey only in goods.”<sup>36</sup> Then Islam gives her right of property to own, to deal without any intervention from husband or other family member. If a woman is prudent, she is completely free to sale, to purchase, to pledge, to gift and to bequest her property with her sole desire. Here husband has no right to object on the exercise of these rights without his permission. For it Muslim jurists have to argue from the verse of *Qur'an*:” Make trial of orphans until they reach the age of marriage; If then ye found sound judgment in them, release their property to them.”<sup>37</sup> In this verse orphan includes both male and female.<sup>38</sup> Talking about the duties of woman regarding her husband, According to some Muslim Jurists a woman can not go out side the home without permission of husband. It is an obligation for woman to get permission prior her exit from home. If this is, then all discussion concerning the rights of woman seems useless. If exercise of her rights is dependent on the discretion of husband, then husband enjoys his right of discretion not wife. Another point is that right means proved and acknowledged by Lawgiver, if some thing is given by Lawgiver to human being man or woman, no need to take permission from any one. Anyhow, this issue of permission is determinable by our Pakistani religious scholars. For this, revision of the status and condition of Muslim woman is necessary during the period of Holy Prophet. What should be the extent of this of this discretionary power? To limit this power, we have so many examples to prove that a true Muslim man can not misuse his power. The best example is the silence of

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<sup>33</sup> Imam Ahmad b. Hanbal, Al-Shaibani, *Al-Musnad* (Cairo: Hajr li al-Taba'wa al-Nashr, 1989 ) 2:472.

<sup>34</sup> Al-Tirmidhi, Abu - 'Esa Muhammad bin 'Esa , *Sunan -al- Tirmidhi* ( Damishq: Dar-al-Fikr, 1980) 2:44.Kitab al-Manaqib, Bab Fadl Azwaj al-Nabi.

<sup>35</sup> Imam Bukhari, *Sahih al- Bukhari*, 9:120, Kitab al-Nikah, Bab la Yatruq Ahlahu Lilun The cause of this hadith was that Abdullah b. Rawahah return back from journey at night and went to home and found some thing odd regarding his wife, He brought out his sword to kill , then his wife said: I am for you, some one mislead me, He informed Holy Prophet, And Holy Prophet prohibited men to enter home at night. See for detail, Al Syyuti, Jalal al-Din, *Asbab Warud al-hadith*.p.176.

<sup>36</sup> Imam Muslim, *Sahih Muslim*, 3:1465, Kitab al-Imarat, Bab Wajub Ta'tul Amr fi Ghair Ma'siyah.

<sup>37</sup> 4: 6.

<sup>38</sup> See for detail, Dr. Ahmad b. Muhammad b. Abdullah A'babteen, *Al-Mara'tu al-Muslima al-Mua'sirah* (Riyadh: Dar A'lam al-Kutub, 1993) p.79; Dr. Abdul Karim Zaidan, 4: 187-320.



Hazrat Umar about his wife who had to perform her prayers regularly, day and night in the mosque. Despite of his disliking, Hazrat Umer did not prohibit her wife from doing so. It was just because of the saying of Holy Prophet Peace be on Him: "Do not forbid female slave of Allah from coming them to mosque."<sup>39</sup> It is reported that Abdullah b. Umar stated the saying of Holy Prophet: "when women take permission to go to mosque, do not forbid them." Bilal b. Abdullah replied: "O God we will forbid them" Then Hazrat Abdullah abused him which he never heard to use and said: "I am telling you the Hadith of Holy Prophet and you are saying O God we will forbid them"<sup>40</sup> It becomes clear that no one is allowed to exceed the limits imposed on him by Lawgiver. No doubt, to say prayer and to perform worship in mosque is *Mubah* for women but to give permission for it is an obligation for man.<sup>41</sup> The most important event which proves that prior permission is not *wajib* for every permissible act, it is the act of Hazrat Zainab bint Jahash, the wife of Holy Prophet Peace be on Him when she ordered to set up a tent in the mosque for *I'tikaf* during *Ramadan*. For that only Hazrat Ayesha and Hazrat Hafsa got permission. It is reported from Amrw b. Harith that he did not find any report that Hazrat Zainab got permission from Holy Prophet. She just saw the tents of Hazrat Ayesha and Hazrat Hafsa in the yard of mosque and ordered for her.<sup>42</sup> It is beyond logic that the wives of Holy Prophrt could ignore *Wajib*. There is no report that after knowing about the tent of Hazrat Zainub Holy Prophet asked her why she did so with out His permission. If we study history of Muslim women, we come to know that in every field of life, Muslim women contributed her share in the development of society. At that time Muslim were not so conscious and concerning with the issue of woman, what she can do and what cannot. They spent their energy to develop their society not in thinking and torturing women, why she did so or why not. Now a day it is claimed that to do all house hold work is responsibility of female (wife). History of Muslim women shows that she is not bound to do all house hold works. Holy Prophet Peace Had eleven wives but He did not ask them to do His work. He had to stitch and wash His clothes Himself. He mended his shoes. He prepared food. Then He arranged female slaves for them. It is reported that a *Habsbi* female slave had to make *Nabeed* for Holy Prophet.<sup>43</sup> Our great Prophet was very sensitive about Her Wives, once a Persian came and invited Him for lunch. Hazrat Ayesha was there. Holy Prophet pointed out towards her and asked: "Is she invited? He replied: "no".

<sup>39</sup> Al-Asqalani, Ibn-e-Hajr, *Fathul Bari Sharah Sahih al-Bukhari* (Cairo: Mustafa' al-Halbi, n.d.) Kitab Abwab Sifat al-salat, Bab Kharuj al-Nisa' ila al-masjid, 2:492

<sup>40</sup> Imam Muslim, *Sahih Muslim*, Kitab al-salat, Bab Kharuj al-Nisa' ila al-masjid, 2:22.

<sup>41</sup> See for detail, Abd al-Halim Abu Shaqqah, *Tahrir al-Mara'h fi A'sr al-Risalah* (Cairo: Sad, Be, 65 Majlis al-Sha'b, n.d.) 2:171.

<sup>42</sup> Imam Bukhari, *Sahih Bukhari*, Kitab Salat al-Traweeh, Bab Man Aradah a'n Ya'takif, 5:190; Imam Muslim, *Sahih Muslim*, Kitab Al-I'tikaf, Bab Mata Yadhkhulu man Ara'dah al-I'tikaf, 3:173-175; See for detail of this Hadith, Al-Asqalani, *Fathul Bari*, 5:180-181.

<sup>43</sup> Sahih Muslim, Kitab Al-Ashribah, Bab Iba'at al-Nisa', 6:102.

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Holy Prophet said:” then I will not come” In that day, he came for thrice but He refused to accept invitation without Hazrat Ayesha. At last that Persian invited Hazrat Ayeshe too. Then holy prophet and Hazrat Ayesha went to his home.<sup>44</sup> Imagine! How did Holy Prophet care for the feeling of His wives.

### **Status and Role of woman out side home.**

This is blessing of Islam that it does not make women responsible to work and to earn outside home. She is free of all liabilities to maintain her family. She is exempted from the obligation of maintaining and spending, this heavy responsibility rests on man alone. Irrespective of all these, Islam does not prohibit her to indulge in any permissible profession and to earn. This permissibility indicates that Islam considers a woman a complete and competent human being. If she has capacity to look after her children and to do any business or job, No one has right to prevent her from doing so. Here female posses all those economic rights which a man has. To understand these rights in true Islamic perspective it is necessary to know the condition & status of Muslim women in the period of Holy Prophet Peace be on Him and condition of Muslim woman in this contemporary scenario. In this section, first I would discuss the contribution of Muslim women in the society during the life time of Holy Prophet Peace be on Him. Then I will discuss the issues and problems only of those women who adopt a profession or do a job with the prior permission of their husbands but even then they suffer lot of problems.

#### **i. Freedom of speech and education.**

It is interesting to note that a woman, in the period of Holy Prophet Peace be on Him was fully enjoying this right. A Muslim woman could express her opinion not only before her husband but also before Holy Prophet Peace be on Him. If we see towards Qur'an, we find chapter twenty eight started with the name of a Muslim Woman, Arguing and litigating with Holy Prophet regarding her husband. Qur'an states:” Allah has indeed heard the statement of the woman who pleads with thee concerning her husband and carries her complaint to Allah.”<sup>45</sup> Then we know that the wives of Holy Prophet also litigated before Him regarding their maintenance. At that time a woman was free to ask any type of question from Holy Prophet Peace be on Him, for that she was not required to ask her father or husband. When ever she wanted, she had to go to Holy Prophet directly without any hesitation and prior permission of her husband. There are

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<sup>44</sup> Ibid. Bab Ma` Yafalu al-Daif, 6:116.

<sup>45</sup> 58:1. That woman was Hazrat Khawla bint Sa'lbah whos husband divrceed her by way of Zihar, See for detail, Ibn-e-Kathir, Abu al-Fida Isma'il, *Tafseer al-Qur'an al-Azeem* (Bairut: Dar al-Fikr, n.d.) 4:318.

number of *Ahadith* which prove that she did not need permission from her husband to do so. In this way she enjoyed the right of getting knowledge and to learn from Holy Prophet. It is important to note that knowledge includes all types of permissible knowledge, whether religious or scientific. Because majority of *Qur`anic* verses and *Ahadith* mentioned this word in absolute and in general terms. Qur`an states: "Allah will raise up to ranks those of you who believe and who have been granted knowledge and Allah is well acquainted with all you do."<sup>46</sup> Holy Prophet said: "Who travels for learning & knowledge, God makes easy, his/her way to paradise."<sup>47</sup> Here the word who includes both man and woman. In another Hadith it is reported from Anus b. Malik that holy Prophet said: "Get knowledge whether in China, because getting knowledge is an obligation."<sup>48</sup> It is clear that at that time there was no Islamic knowledge in China. Then Holy Prophet Had to arrange separate sitting with women to teach them properly, though women had to attend meeting with men. It shows that how our great Prophet Was concerned with the education of women. It is also proved that co-educational discussion is also allowed. It is reported that Umme Fadl participated in the discussion with male *Sahabah* regarding the fast of the day of *A`rfah*. Some were saying that Holy Prophet had fast while others were denying it. Then Umm-e- Fadl sent a Bowl of milk to Him. Holy Prophet Drunk it and He was on camel. <sup>49</sup> We see that how women were active and confident. It also indicates that a women posses ability to understand the situation and to solve the problem in sophisticated manners. She has full capacity to participate in educational discussion. This is possible only if woman has knowledge on equal basis. The fact is that only knowledge can expand the vision & exposure of woman. By getting knowledge she is be able to grow up and to train her children properly. She learns to manage time and life. Then in Crucial circumstances she can contribute her husband in his financial responsibilities. If her husband has no good earning, may be due to her job, they progress by leap and bound. Knowledge is the source of civilization, strong culture and prosperity. It is also said that the first learning institution of a child is the lap of his mother. An illiterate and uneducated woman how can become a learning institution, if she herself has no vision? Will God do not ask about the infringement of the rights of woman as human being? Unfortunately, now a day, we are not agreed to consider the distinct personality of woman. We take her just as daughter, sister, mother and wife. We have no concern with her mental, spiritual and social needs. Being a

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<sup>46</sup> 58:11; Consult, Abdul Latif Sayyad, *Haquq al-Mar`ah wa Haquq Zwjiha*

*Kama`Ja`a`Biha`Raswl-Allah* (Iskandariah: Cultural Publishing House, 2006) pp.155-158.

<sup>47</sup> Al-Tirmidhi, *Sunan -al- Tirmidhi*, Kitab Al-Ilm, Bab Fadl Al-Ilm, 3:34

<sup>48</sup> Ibn Abdul Bar, *Jama` Bayan al-Ilm wa Fadlahu* (Cairo: Dar al-Kutub al-Islamiah, 1983) p. 27;

Al-Asqalani, *Fathul Bari* , 5:180-181.

<sup>49</sup> Sahih Muslim, Kitab al-Siyam, Bab Istehbab al-Fitr, 3:145.

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daughter and sister, she is expected to sacrifice and to seek permission from her brother and father for every basic and minor thing. E.g. for getting education she is not free to decide according to her own desires. She is not consulted regarding her marriage issue. Being a wife, we consider her just as an object and soulless thing, having no desire no contradiction. She should cook what I like as husband. She should dress up which color I like. She has to wait for me till late night but she has no right to ask. She is expected to say yes boss even on wrong and foolish decisions made by me because I am husband. There is no regard and acknowledgement of her efforts to make the environment of home peaceful. If her husband makes progress this is because of his effort but he faces any problem, it is because of the malafied intention (*nahusat*) of his wife. Many female want to study and to get education while staying at home, but their husbands do not allow them. Is it not strange that she can spend in the way of Allah without the permission of her husband which is *nafl* but she can not get education without his permission which is an obligation?

Majority of our religious minded people are not in favor of higher studies of their daughters, it is this reason that in an Islamic state like Pakistan only 4% of our female succeed to reach university. In our society, freedom of speech is often used against the woman. This male dominant society does not like freedom of expression from her daughter, sister, and wife and from his female colleague. Here I would like to quote saying of a woman to Hazrat Umar, The great caliph of Muslim Ummah:” O Umar! Allah has given us right of unlimited dower and you are going to prevent us by limiting it; does not God say in Qura’n:” And if you have given one of them a treasure, do not take back any thing from it.”<sup>50</sup> Then Hazrat Umar said:” Woman is right and Umar has made mistake.”<sup>51</sup> *Al-Hamdulillah*, we have good and positive thinking for our mothers. Only here we act upon *Ahadith* that paradise is under the foot of mother. But until this stage, she has lost all her capacity, strength and energy to do any work. In majority cases, a woman in our society succeeds to get respect and to give suggestions after the marriage of her children. This practical situation simply means that we respect only weak and helpless, deaf and dumb female. Will Allah ask us only about our mothers?

### **b. Freedom of social & political activities.**

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<sup>50</sup> 2:229

<sup>51</sup> This happened in a general meeting with Muslims. This shows the freedom of speech for woman in interesting manners. Women, at that time were bold and courageous and could not afford any negligence regarding their rights. They had to attend every meeting called by Caliph without the permission of their husbands. It also proves contribution of woman in the legislation. See for detail, Ibn-e-Kathir, *Tafseer al-Qura’n al-Azeem*, 1:467.

Islam regulates every affair of the individual in detail manners. The life of Muslims is ruled in its entirety by the *shariah* which spells out the precise rules and regulations governing individual relations with God as well as with fellows.

Since Islam considers a woman a social being, so allows her to participate in social gatherings and to contribute in social development. It is easy for us to hold the social fabric of the Islamic society through the history of the Muslim Ummah. We see that Muslim woman has a strong contribution in the development of Muslim society. During the period of Holy Prophet and His companions when ever Muslims were called for a meeting or some gathering, women hurried toward it and no one had to forbid them. Were all of them without husbands or guardians? It is reported from Khwla bint Qays that in the period of Holy Prophet, Hazrat Abu Bakr and in early days of Hazrat Umar we (women) had together in the mosque, we had friendship with each other, we talked to each other and some of us treated the sickness of eyes.<sup>52</sup> Talking about these gatherings Allamah Ibn al-Qayyam Al-Jawziyah writes:

What the *Madani* people reported about the speeches of Holy Prophet Peace be on Him, it seems that they have stated that Holy Prophet kept silence regarding the issues of women to go outside the homes, to appear in mosques and to attend the social and general meetings, when it was announced.<sup>53</sup>

In a *Hadith* it is reported from Anas b. Malik:” When Holy Prophet Peace be on Him intended for Jihad, He had to take Umme Slaem and some other women with Him. They had to drink water to wounded Muslims and treated them.”<sup>54</sup> In another Hadith Umme Atiyah reported that they were ordered to go out side the homes on *Eid* day, even unmarried and *Hayeza* were also asked to go to mosque. *Hayeza* were asked to remain behind the people, to say *takbeer* and to participate in pray.<sup>55</sup> This Hadith indicates that unmarried female was stuck at home until Holy Prophet ordered her to go out side to enjoy *Eid* day. But married women were free to attend social and religious ceremonies. Then Holy Prophet allowed a woman Asma` bint A`mies to treat the children through spiritual way (Dam). Another Muslim *Ansari* woman, Umme Sharik was very rich and generous. Many companions of Holy Prophet Peace be on Him come and stay at her home. She had to attend her guests.<sup>56</sup> IT is reported from Abdullah b. Amarw b. Aa`s:” Some people were gathered at home of Hazrat Abu Bakr in his absence.

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<sup>52</sup> Ibn Sa`d, *Tabqat al-Kubra* ( Bairut: Dar al-Kutub al-Ilmiyah, 1980 ) 8:296; Muhammad b. Bakr b. ayub, *A`lam al-Mawqaen* , 2:388.

<sup>53</sup> A`lam al-Mawqaen , 2:388.

<sup>54</sup> Imam Muslim, *Sahih Muslim* , Kitab al-Jihad wa Sayer Bab Ghazw al-Nisa ma`al-Rijal, 5:196.

<sup>55</sup> Sahih Bukhari, Kitab Al-i`daen , Bab Takbir Ayyam Mina` ,3:115; Sahih Muslim, Kitab Al-i`daen, Bab Zikr Ibahat Li-Alnisa` fi al-I`daen, 7:118.

<sup>56</sup> Sahih Muslim, Kitab Al-Talaq, bab Al-Mutalliqah slasn, 4:196.

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They were talking with his wife Asma' bint U maes, then Hazrat Abu Bakr entered in to home and felt odd.he discussed it with Holy Prophet Peace be on Him and said I found it for betterment. Then Holy Prophet Peace be on Him said:" After this day no one is allowed to enter in to the home of a woman in the absence of her husband except in group."<sup>57</sup> It proves the gathering at home without prior permission of husband and indicates that there is no harm if some people gather at the home of a Muslim woman for a beneficial purpose. Such type of gathering removes doubt. It also shows the liberty of women at the time of Holy Prophet and refutes the claim of those who declares a woman as property of man. Umme Kalsum bint A'qbah migrated towards Medina during the period of reconciliation, she was unmarried. Her family comes to take her back but Holy Prophet refused.<sup>58</sup>In this way that woman expressed her right of politics. We also know that Hazrat Auyesha used her political right by demanding retaliation of Murder of Hazrat Uthman. No companion objected that being a woman she had no right to participate in such political issues.Then Hazrat Ayesha had communication with Arab leaders from all cities. They wrote letters to her. They gift her. Hazrat Ayesha had to reply them and accept their gifts.<sup>59</sup>

### **c. Freedom of Profession &business.**

God said in Qur'an:" And when the prayer is finished, then ye may disperse through the land. And seek of the bounty of Allah."<sup>60</sup>Islam appreciates working and earning. It is this reason that it favors the unlimited rights of ownership, It motivates it believers to do work hard and condemns the begging. This right of working and earning is a fundamental right of human being, man and woman. For man it is an obligation to work, to earn and to spend on her family. For woman it is permissible. A woman can adopt any permissible profession, job and business. To carry on her professional activities, it is her right to communicate, to deal, to enter in to any contract and to travel.<sup>61</sup> It is the right of human being to work and to up grade his living standard. According to Islamic Jurisprudence permissibility or *Mubah* does not depend upon the necessity. So it is not correct when it is said that female can adopt a profession only in case of necessity. Necessity permits prohibited things. The only condition is that this permissible matter should not in clash with her duties that is to look after her children and to care for the property of her husband and to attend her husband heart heartedly. We have number of examples that a Muslim woman in the period of Holy Prophet Peace be on Him was enjoying this right with full freedom. She

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<sup>57</sup> Sahih Muslim, Kitab Al-Salam, Bab Tahreem al-Khawa bil-Ajnbiyyah, 7:8 .

<sup>58</sup> Sahih Bukhari, Kitab Al-Sharut, Bab Ma- Yajuz min Shurut.6:240.

<sup>59</sup> Sahih al-Bukhari, Kitab Adab al-Mufrid , bab al-Kitabah ila' al-Nisa' , 8:108.

<sup>60</sup> 62:10 .

<sup>61</sup> Dr.Abdul Karim Zaidan, 4: 265.

earned and spent and become a source of prosperity for her family. The best example is the work of Hazrat Asma' bint Abi Bakr. She had to work out side the home; she assisted her husband with her own desire. Her husband Abdullah b. Zubair never asked about her activities. According to Jamhur al-Ulema': she was doing so with her own desire because she was not under obligation to assist her husband outside the home.<sup>62</sup> Once she sold her female slave and got money, meanwhile Hazrat Zubair come and asked her to give him that money. She replied that she had given it in the way of Allah. Her husband did not mind it.<sup>63</sup> It is reported from Abdullah b. Abbas that Holy Prophet took women to *Jihad* and they were given share from *Mal-e-Ghanimat*.<sup>64</sup> Another Hadith is that Umme Mubashir Ansariyah was a farmer and cultivated her farm, and Holy Prophet appreciated her.<sup>65</sup> Ant of Jabir b. Abdullah did work to collect dates during her waiting period when she was divorced by her husband and Holy Prophet allowed her to do so. Though, she was advised not to do work by her relatives.<sup>66</sup> From this Hadith it appears that she was not facing the problem of maintenance. It is stated in Tabqat al-Kubra' that Hazrat Zainab wife of Abdullah was skillful. She knew handy craft. She had to prepare goods and sell it. She asked Holy Prophet if she spend money on her husband and children. Holy prophet replied her that it will be reward able.<sup>67</sup> It shows that she was not spending on her family before it. An Ansari woman whose slave was a carpenter, asked Holy Prophet to make for Him a stage of wood (*Minber*). Then she ordered her slave to prepare *minber* of Holy Prophet. There was no report that she did it with prior permission of her husband.<sup>68</sup> On another occasion Holy Prophet ordered Shifa bint Abdullah to teach Hazrat Safiyah. A woman had to clean the mosque and Holy Prophet appreciated it. When she died Holy prophet performed her funeral prayer.<sup>69</sup> It is reported that when ever any trade delegation come to the city all men and women had together around it to know the rates of goods and to buy things and Holy Prophet was among them but He never prohibit women from coming there.<sup>70</sup> The best example is that Hazrat Zainab wife of Holy Prophet was professional; she dyed the animal's skins. She stitched it and earned and then had to give in the way of Allah.<sup>71</sup> It means that a woman can work or adopt of profession even if there is no necessity because other wives of Holy Prophet did not do any work as a

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<sup>62</sup> Ibn-e- Hajr AL-Asqalani, 9:323-326.

<sup>63</sup> Imam Muslim, *Sahih Muslim*, Kitab al-Salam, Bab Jawaz al-Mar'at..., 7:12.

<sup>64</sup> Ibid., Kitab Al-Jihad Bab Al-Nisa' al-Ghaziya. 5:197.

<sup>65</sup> Ibid. Kitab Al-Musaqat, Bab Fadlal-Gharas, 5:27.

<sup>66</sup> Ibid. , Kitab al\_Talaq, Bab Jawaz Kharuj al\_Mu'tiddah...4:197.

<sup>67</sup> Ibn-e- Sa'd, 8: 290 .

<sup>68</sup> Sahih Bukhari, Kitab al-Hibah, Bab Man Istuhabah..., 56:127 .

<sup>69</sup> Ibid. , Kitab al-Salat, Bab Kins al-Masjid, 2:99; Ibn-e- Hajr AL-Asqalani, 2:100.

<sup>70</sup> Ibid . 3:76

<sup>71</sup> Ibid. 4:28 .

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profession. Then there is no report that Holy Prophet audited her regarding her income and expenditures. Another wife of holy Prophet Hazrat Maimunah bint Harith set free her maid slave without prior permission of Holy Prophet. On the day of her turn, she told Him about it. Holy Prophet said:” If you give her to your uncle it would be more reward able for you.”<sup>72</sup>

To conclude this section, I would like to say that Women in period of holy Prophet played a significant role in the cultural and intellectual advancement of the Muslim society. There was hardly any phase of life where women did not contribute. They enjoyed a degree of freedom that was rare in the contemporary period of Muslim world. Though, in presence of such rich religious and cultural history it seems unnecessary to legislate in favor of women yet certain steps have been taken by all governments of Pakistan to protect women from discrimination and harassment. Let me discuss these legislations made by different governments in favour of women of Pakistan.

### **Muslim Women in Pakistan.**

Pakistan, a nation-state established in 1947 on the basis of distinct Islamic features and culture. Pakistan in itself has a very rich cultural and traditional background going back to the Indus Valley civilization, 1800-2800 BC. The region of Pakistan has been invaded, occupied and settled by many different nations including Dravidians, Aryans, Greeks, White Huns, Persians, Arabs, Turks, Mongols and various Eurasian groups. Each of them had its own culture and civilization, since has a great impact in the development of Pakistani culture.<sup>73</sup> The origin of Pakistani however comes from Arab lands. Islam arrived in this area in 713 CE, when the Umayyad dynasty sent a Muslim Arab army led by Muhammad b. Qasim against the ruler of Sindh, Raja Dahir whose pirates attack Arab ships. The Muslim army conquered the north western part of India. Thus Arab Muslims set the religious boundaries of South Asia that led to the establishment of Pakistan.<sup>74</sup> This is the historical background of Pakistan. So far as concerned the current situation, the estimated population of Pakistan in 2009-2010 was over 180,000 making it the world's sixth most-populous country, behind Brazil and ahead of Russia. By the year 2020, the country's population is expected to reach 220 million, owing to relatively high growth rate.<sup>75</sup> The expected population growth in the year 2010 is 4829200 making it the world's fourth country having highest growth rate, behind Indonesia and ahead of Nigeria.<sup>76</sup> Pakistani women have

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<sup>72</sup>Ibid. , Kitab al-Hiba` Bab Hibatul-Mara't, 6:146.

<sup>73</sup>OM. Gupta, *Encyclopedia of Pakistan , India and Bangladesh* (Delhi: Isha Books, D-43, Adrash Nagar,1996) 1:170-171

<sup>74</sup>Ibid. , 1: 173.

<sup>75</sup> Pakistan, An Official Hand Book (Islamabad: Directorate General Publications) p.269.

<sup>76</sup>Report in Weekly Akhbar-e-Jahan,01-07 March (Karachi:,Regd.No.SC-28,2010) p.30



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the ratio of 52% of the total population. Among Pakistani People 42% are less than eighteen years of age. Pakistan, where about a third of its population live below the International poverty line of US\$1.25 a day, where a common man earns only 6000Rs per month and has 5-6 children to maintain.<sup>77</sup> Muslim women of Sub-Continent were never thought to be equal to men in any way. Since long time they were asked to live within the four walls of their houses. They were rarely given a chance to expose and to show that they too had a brain or thoughts of their own.<sup>78</sup> I think it is due to the ignorance and illiteracy of Muslim in this area. However, when women were given a chance, they proved themselves competent in every walk of life. We can not forget the remarkable contribution of Motharma Fatima Jinaah in the movement of Pakistan. We had woman like Begum Shaista Ikramullah, Ra'ana Liaqat Ali Khan, Lady Abdullah Haroon, Begum Salma Tasuddaq Hussain leading our march to freedom. After the formation of Pakistan, feminist organization started by Motharma Fatima Jinah to eliminate social injustice against women of Pakistan. Ra'ana Liaqat Ali Khan established All Pakistan Women Association (APWA). The Pakistani Women granted the suffrage in 1947 and they gained the right to vote in National elections in 1956. Reserve seats for women in the parliament existed through out the constitutional history of Pakistan from 1956 to present. During the regime of Zulfikar Ali Bhutto, a liberal attitude adopted towards women. All government services were opened to women including the district management group and the foreign services, which have been denied to them earlier. The most significant role of this government was to protect woman through constitution of Pakistan 1973 and gender equality was specifically guaranteed in Constitution. Article 25(2) states: "There shall be no discrimination on the basis of sex." In the same article it is announced that the state shall make special provisions for the protection of women and children. Similarly Articles 26, 27 announce that all public places and public services shall be in access to all Pakistanis irrespective of their cast and sex.<sup>79</sup> As a result of military coup in July 1977 the Bhutto's government overthrew by the army Chief of Staff, General Muhammad Zia-ul-Haq. During his period (1977-1986) many steps were taken towards institutional building for women's development. In 1981 General Muhammad Zia-ul-Haq nominated the Federal Advisory Council and included 20 women as members. In 1985, the National Assembly elected 20% women (Doubled women reserved quota) through non party elections. However, Zia-ul-Haq initiated contradictory policy by introducing discriminatory legislation against women such as the set of

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<sup>77</sup>The World Book Encyclopedia (Chicago: World Book Ink, 2000) 15:97; Pakistan Almanac 2000-2001 (Islamabad: Royal Book Company, 2001) p.186.

<sup>78</sup>N.K. Singh, *Social Justice & Human Rights in Islam* (New Delhi: Gyan Publishing House, 1998) pp:32-33.

<sup>79</sup> See, The Constitution of Pakistan 1973. (Lahore Mansoor Book House, 2004) pp:82-89.

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Hadood Ordinance and the Law of evidence order. He suspended all fundamental rights given to women (Article 25, 26, 27). According to *Zina* ordinance if a raped woman could not prove to the judicial system that she was raped, she faced adultery charges. In September 1981, the first conviction and sentence of stoning to death (under the *Zina* of Ordinance) for Fahmida and Allah Bakhsh was set aside under the national and International pressure. In 1983, an orphan of 13 years old raped by her uncle and became pregnant. She was unable to provide evidence of four male eye witnesses. As a result, she was charged with adultery. She was awarded the *Tazir* punishment of one hindered lashes and three years of rigorous imprisonment.<sup>80</sup> Because of such legislation the past 29 years were not easy for women. In the early 80s obscurantist laws turned democratic dispensation up side down. Violence against women, endemic in Pakistan for years, increased as thousands of women raped and when they attempted to lodge FIRs, found them imprisoned on ground of adultery. Education and health care for women declined sharply. Almost no woman was visible at senior official cadres. In 1988, Benazir Bhutto became the first female prime Minister of Pakistan. Unfortunately, she could not repeal any single piece of *Hadood* Laws. In 1989, the first Women Bank was established. The Social action Programme launched in 1992/93 to reduce gender disparities by improving women access to social services. In Feb. 1996, Pakistan acceded to the Convention on the elimination of all forms of discrimination against women (CEDAW). The country's first Women University was inaugurated on 6 august 1998. The Human Development and Poverty Reduction strategy was introduced in 1999 which aims women as targeted group for poverty reduction but lacks the gender framework.<sup>81</sup> The Ministry of Women development is the designated national focal machinery, made independent ministry in Sep. 2004 during the regime of General Pervez Musharraf. In late 2006, the Parliament passed the women protection Bill, repealing some of the *Hudood* Ordinance. It aims to protect women from unjust accusation of *Zina*. This Bill invoked protest from hard- line Islamist leaders and organizations. Then The Protection of Women Criminal Laws Amendment Act also passed. It is also a controversial Act.<sup>82</sup> On Jan. 2010, President Asif Ali Zardari signed the Protection against Harassment of Women at Workplace Bill 2009 which the parliament adopted on Jan. 21; 2010. The object of the Bill is to create a safe working environment for women, free of harassment, abuse and intimidation. According to this Bill all Professional Institutions are bound to set up an enquiry committee, which would inquire into harassment cases. The Criminal Law Amendment

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<sup>80</sup> Article written by Asifaa Quraishi, An Islamic Critique of the Rape Laws of Pakistan, Michigan journal of International Law, Vol.18, No.2, 1997.

<sup>81</sup> [www.pakistan.gov.pk/ Ministry](http://www.pakistan.gov.pk/Ministry) of women development.

<sup>82</sup> Rehman, I. A. *The Legal Rights of Women in Pakistan* (Islamabad: n.p. 1998) p.83; <http://www.dawn.com>.

Act2010 prescribes stringent punishment for harassment. Another important work done by this government is legislation against domestic violence. This is the Protection against Domestic Violence Act 2008. For women 10% quota has fixed in civil services. Benazir Income Support programme has launched to support poor female. Under this programme two hundred and fifty thousand women are getting vocational training. Parliamentary women have established Women's Caucus to address women issues.<sup>83</sup> This was the legislative story in favor of Pakistani women. Now we have a bird eye view of the practical situation of the rights of women prevailing in Pakistan. Are women enjoying their rights given to them by Shariah and through legislation? What are the problems faced by Muslim women of Pakistani society. It has been clear by above discussion that getting education is primary duty of every Muslim man/woman. Talking about the educational condition, I feel sorry to say that among 134 countries of the world, Pakistan ranked on number 117 whom children can not get proper primary education. Where, 78% girls cannot complete their primary education due to this and that reason.<sup>84</sup> In the presence of such bitter situation how can we claim that we are true believers of Islam? In Pakistan, 98% people are Muslim. What are the reasons behind this ignorance and illiteracy? The educational status of Pakistani women is among the lowest in the world. The school dropout rate among women is very high (almost 50%). Even then, the educational achievements of women student are higher than men students.<sup>85</sup> So far as concern the issue of freedom of opinion, women are not empowered to realize her own worth and not be able to make decision regarding their own life to a reasonable degree, independent of the influencing factors. Majority of our women, whether working or at home; single or married; do not exercise these rights. They abide to their norms and they need approval from their male. They have no power even to choose their desired study area. It is very strange that a father and brother may allow her to go to markets, to attend marriage ceremonies without proper *Hijab* and head *scarf*. But if she wants to get higher education in a university she is not allowed. In many cases, daughters are forced to get marriage during their studies. Again issue of her consent for marriage arises. She cannot express her opinion regarding her life partner. Father does not bother to take her consent and to consult her. She suffered domestic violence after marriage only due to social pressure. After marriage, parents are reluctant to hear her problems and to solve them. Domestic violence is considered as a non judicial, private and family matter. It is reported that domestic violence takes place in Pakistan, approximately 80%.<sup>86</sup> Domestic violence occurs

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<sup>83</sup> Report, Jang Development Reporting Cell, Published on Thursday, Tuesday, 9- 3-2010.

<sup>84</sup> Report, Jang Development Reporting Cell, Published on Thursday, Tuesday, 4- 3-2010.

<sup>85</sup> Ibid.

<sup>86</sup> A survey conducted by Human Rights Commission in 1996. see for detail, [www.ansarburney.org/women](http://www.ansarburney.org/women).

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in form beating, torture, acid attacks and burning the victim alive. As majority of women got married during their studies, this is a major cause to create domestic violence. Women do not have knowledge or any professional skill. So they are afraid of maintenance because their old parents can not afford them. She can not seek divorce. Contrary to Islamic provisions, she can not claim for separation even if her husband does not maintain her. It is reported that violence against women increased by 13% in 2009, with 8548 incidences of violence reported country wide.<sup>87</sup> Dowry is another problem faced by Pakistani women. In a country where about one third of its population lives below the International poverty line, where a common man earns only 6000Rs per month and has 5-6 children to maintain, where girls are uneducated, it is impossible for parents to prepare dowry for girls. Illiteracy and dowry both result in degradation of women. Education of women not only upgrades them but also be helpful in preparation of dowry. Thank to God, now parents and girls have awareness, yet they are willing to carry on their studies whilst expecting a child. But this issue is also dependent on the permission of husband, even if a woman is agreed to get education through electronic means. The participation of women in politics is less concerning issue in absence of education and confidence over women. Although, the participation of women in politics is increasing, in majority cases, it is her father or husband who decides whether she should participate or not. Again this issue has no religious base. This is the sole authority of man. The best example is the local government system introduced by General Pervez Musharraf. In Union Councils women were given 33% representation. It is strange that women were allowed by their fathers and husbands to participate in elections only but in many areas they were not allowed to attend meetings and to perform their duties. These are their fathers, husbands and brothers who had to attend meetings and to decide the matters.<sup>88</sup> What a government can do in such circumstances? As for employment opportunities, Pakistani woman plays a countable role in agricultural production, livestock rising and cotton industries. The current report is that 72% of rural women participating in agriculture with men. They work 14-16 hours a day.<sup>89</sup> In Pakistan economic mobility is allowing woman to pursue career of her choice and earns a living. She has accepted the challenges in the development of the society beyond her four walls. She is certainly more aware as compared to her sisters 20-30 years ago, in terms of social dynamics, knowledge base and her own opinion on things. She developed her competence to be a part of a larger economic development frame work. As a result, women are offered various positions in the professional fields. Since Pakistani women got numerous achievements. There is hardly any phase of life where women did not make a mark—literature, science,

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<sup>87</sup> Data collected by Aurat Foundation, [www.Auratfoundation.com](http://www.Auratfoundation.com).

<sup>88</sup> Jang Mid-Week Magazine, 24-03-2010, p.8.

<sup>89</sup> [www.gov.pk](http://www.gov.pk)

poetry, art, medicine, philosophy as well as game. Many earned their living and some practiced in the court but still professional women are not in majority. According to the World Bank's report (1997), only 28% women of the country constituted labour force. These are the women of lower class. They work in the houses, fields and giving birth whilst they are working.<sup>90</sup> Human Rights Commission of Pakistan's report (1999) shows that only 2% of women are participating in the formal sector of employment.<sup>91</sup> This number is increasing due to special care of government. For Pakistani woman the problem is not the seeking permission of her husband. Permission is there because of unemployment of male members and Price hike of basic needs. The problem of Pakistani woman is the exploitation of her basic and fundamental rights. An educated and professional Pakistani woman is facing so many problems. Especially when she is married, if husband allows her then she has to face criticism from her in-laws. She is being objected on her timings when she is going and coming back. She has to satisfy them on each and every petty matter. She is expected to prepare break fast before her departure and to make dinner after her arrival. Another problem is that she is not allowed to attend meetings and other leasur activities of her institution. It is assumed that she is ironic having extra physical structure and no mental level. She should perform all official and household duties without any resistance like animal. Then she should be ready to hear negative comments as she is found of wondering, she does not like to stay at home and she does not care for her children. This extra burden and behavior of her family make her old before time. Then no body cares for her health. This adverse attitude leads to nutritional deficiencies. It is this reason that malnutrition affects women more than men. At least 40% of women are anemic. Adult women consume less iron than men in Pakistan even though their requirement is thrice as high as men. Since malnourished mothers face the likelihood of low birth weight babies who often grow up into children with abnormally low height, weight, deficient learning capabilities and susceptibility to disease.<sup>92</sup> Then complex of superiority in man towards his professional wife is also a problem. Here husband does not like to cooperate, to encourage her. He forced her to do all house hold work though in case of nonprofessional woman, he allows her to keep a maid servant. This is due to his complex that his wife may not think her self free and equal to him. She is being clearly demanded to contribute in the maintenance of family. She is not allowed to deal with her property and saving according to her own wishes. It is her husband who decides all matters. Even then she has no reward, no praise and no encouragement. Then issue of child care is considered the sole responsibility of woman. Husband does not bother to arrange for day care center for his child. It is

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<sup>90</sup>World Bank Indicators, 1997. ( Washington, D.C.: World Bank, 1997)

<sup>91</sup>Human Rights Commission of Pakistan's report 1999.

<sup>92</sup>Pakistan National Human Development Report, pp. 67-68.

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wife who has to arrange it. Is it not strange that this man claims for custody in case of separation? He has no concern with the studies of his children. As his wife is educated so she should teach them in the evening. If any tutor is arranged by him then supervision of this tutor is responsibility of woman. Is it just behavior and according to Islam? Compare to western woman, she is looking like a young woman at the age of 45-60, a Pakistani woman looking like an old lady at the age of 30-40. The only reason is unjust and critic attitude towards women. Talking about social attitude towards professional women, I would like to say that it is dependent upon her family behavior. If family support her and appreciate her, people become irrelevant with such woman. More than 50% problems of professional woman arise due to lack of cooperation and confidence from her family. Out side home, many problems welcome her also. One of these is the public transport. Pakistan is an Islamic state but there is not separate transport system for women. A noble lady feels embarrassment when she is asked to travel in the rush of men. She has no security if someone infringes her right of honor. Then in majority institutions there is no arrangement for day care centers. Woman suffers mental and physical torture if she is mother of a feeding baby. In such a condition she is not able to perform her official duties very well. Every after two hour a baby needs to feed from his mother's breast. Absence of feeding for more than six hour causes deficiency in child and breast cancer in mother. The most important problem for a Muslim woman is co-environment in offices. One man and one woman are asked to sit in an office. It leads to the destruction of family. God has created a man with possessive nature. It is beyond his capacity to tolerate that his wife has to sit for a long time with another man in an office. It also leads to the sexual harassment. Sexual harassment is one of the biggest hurdles for working woman working in different professions. The reports show that the number of rape cases is increasing day by day. Talking about Islamabad 238 rape cases were registered during last year (2009) which was 150 in 2008.<sup>93</sup> These problems can be solved by taking the issues of professional woman seriously. It needs only sincere planning. It is just matter of management. The first priority should be given to the equal opportunity of education to women. It is a good step of Punjab government that it gives books free at school level and a special incentive is given to female students by providing them scholarship of 300Rs monthly. Another important legislation is the provision of 18<sup>th</sup> Constitutional amendment according to which getting education is a fundamental right of every child from 5-16 years of age. This is a good step from the government. The government should take another important step that is to build separate educational institutions for girls. This will solve the problem of unemployment of teachers on one side and fulfill the condition of *Shariah* on another side. The duty of religious sect is to

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<sup>93</sup> Jang Daily Newspaper, Report prepared by Ansar Abbasi, 15-03-2010.

understand the *Shariah* in its true perspective. Knowledge does not mean the knowledge for boys only it also includes girls. Holy Prophet Peace be on Him motivated His companions to educate their female slave. Imagine the status of a daughter. We have pointed out it earlier that only educated woman can perform her duties well. Do not afraid of her knowledge, she will not be out of control, if her training is good and according to *Shariah*. This is duty of every father to educate his daughter. Then she should have some technical and professional skill also so that in case of necessity she may survive with due respect and honour with out begging. Wastage of time is another problem. A woman should busy in positive and healthy activities rather than to waste time in playing, watching movies, talking useless. If a boy gets education and performs all other religious and social activities, then a girl can do also. Why she should be bound to confine to home and learn only household work? We should learn lesson from our female companions of Holy Prophet. We should spend our time in productive activities. Allah Almighty Said in Holy Qur'an: "who does right doing whether male or female and who is believer, We keep them in world in modest life and give them good reward on the Day of judgment"<sup>94</sup> In case of necessity earning become an obligation for woman. How can she be able if she is illiterate and ignorant?

A professional and educated girl can contribute her husband in case of poverty. This is the reason that now boys demand to marry with an educated girl. Here mind set of men should be changed; their wives are not their slaves to contribute and to improve their economic condition but can not spend their salary with out their permission. A man should admit her sacrifices, she does for her family. We know that if man is unable to maintain his wife, Islam orders for separation between them. According to the majority of Muslim Jurists if a man is unable to maintain his wife, he should leave her way to earn. It is important to clear that in this situation man is not entitled to bind her. Here he is bound to contribute in household works.<sup>95</sup> It is estimated that in our Pakistani society more than 80% married women earn in case of necessity. In this case husband is unable or having low income to maintain his family. The problem of day care centers should be taken seriously by the government and these should be established by the executive order of government. All institution must have its own day care centers. Leisure hours should be given to professional women. There must be separate offices or working places for male and female employees. This would save us from destroying our religious and cultural requirements. Husbands will satisfy regarding the working environment of their wives. Separate public transport for women should be started or each institute should be bound to provide pick and drop facility to women workers. To cover face of women is an

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<sup>94</sup> Xvi: 97.

<sup>95</sup> See for detail, Ibn Qadamah, *Al-Mughni*, 11:361-396; Dr. Umar Sulaeman, pp.281-282.

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obligation or not? This issue should be solved by way of public interest. Because a Muslim woman was ordered to cover her face by way of *Sad al-Driah*. Originally, only *Hijab* is compulsory. That is covering of whole body along with head with open face and hands only. It is stated in Qur'n:" O Prophet tell your wives and daughters and the believing women, to cover themselves with *Jilbab*(A long cape from head to foot). So that they may be recognized and may not be molested."<sup>96</sup> Talking about the *Illah*(attribute) behind this *Hukm* Qazi Ibn-e-Rushed states:

When *Amr* and *Nahi* based on common logical reasoning, Muslim Jurists have disagreement regarding the *Hukm* of it. Whether this logical reasoning can be a base to move *Amr* from *Wajub* towards *nudab* or *Istehbab* and *Nahi* from *Hurmat* to *Karahah* or not...He said: Those Shari *Ahkam* which are based on logical reasoning, majority of them are from the category of good moral values or from public interest and such types of *Ahkam* are permissible generally.<sup>97</sup>

Later on Qura'n declares:" And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their *Zeenah*/ ornaments except what appear ordinarily."<sup>98</sup>To interpret this verse Ibn Abbas, Mujahid and Ata' said that Except what appear ordinarily means face, makeup of eyes and hand. According to Hanfi Jurists it means face, and hands. The base of this interpretation is the *Hukm* of *Satar* during prayer.<sup>99</sup> . Now a day, the *Hukm* of *Wajub* of covering face seems difficult to practice. It is this reason that young generation of our society does not practice it. Majority of our Muslim women moves in markets in objectionable dress up. Some women wear tight gown and keep their heads and necks uncovered. I think they do not know that what things of their body should be covered. It is better to preach for *Hihab* only. The fact is that *Hijab* not only covers women but also makes her decent. Government should take certain steps to implement proper Islamic *Hijab* in working places. Religious scholars should use for this purpose TV and on other electronic means of communication. Then topics and *Ahadith* concerning the rights of women in Islam should be taught in every educational institution. This will help to reduce domestic violence. Men will start to respect their women and to consider them as a subject like them. It is estimated that 90% of Pakistani people have 6000-10000Rs salary or income.8% of people earns 20000Rs per

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<sup>96</sup>38:59 .

<sup>97</sup> Abu Walid Muhammad B. Ahmad, Al-Qurtabi, *Bidayat Al-Mujtahid wa Nihayat Al-Muqtasid* (Lahore: Qazafi Street,17 Urdu Bazar ,1992) 1:54.

<sup>98</sup>24:31 .

<sup>99</sup> Al-Jassas, Abu Bakr Ahmad B. Al-Razi, *Ahkam Al-Qur'an* ( Bairut :Dar al-kutub al-Arabi, n.d.) 3:1371; Yusuf Al-Qardawi, Al-Hlal wa Al-Haram fi Al-Islam (International Islamic federation of Student Organizations,1989) pp.83-87; Muhammad Dahir Watar,*Makanatul-Mara'tah fi Al-Shawn Al-Idariyah* (Bairut: Mawassatu al-Risalah,n.d.) pp. 125-128.



month. Only 1.5% persons have income from 20000- 50000 Rs per month. About one third of Pakistani people live below the poverty line.<sup>100</sup> In such crucial circumstances it becomes necessary that women must have knowledge and professional skill. Can in these circumstances a fatwa can be issued in favour of Pakistani professional women who are not only contributing their husbands but also being exploited by them? Who can prevent a husband from beating and exploiting his wife? If only legislation then we should be proud of our religion. We have a rich history both theory and practice. Is government of Pakistan? Yes, we have lot of legislations in favour of women. But all these steps are useless because there is no implementation. So our prime focus should be the implementation of rights of women in our society. This can be happened only by way of changing the minds of men. A change should be brought in the style of training of male children. Parents should treat equally girl and boy. There are different sects in our society. Liberal sect, considerable equality is there but far from Islamic life style. Conservative/religious, more than 80% claim to be religious. Is Islam is there especially for women? Another group of illiterate or ignorant persons, this sect is that portion of our society which is poor and always fights to survive. This sect has no concern with the issue of women. Their women are free to seek for earning, to work and to spend. The above mentioned problems are of those women who earn in case of necessity with the permission of their husbands. The figures of domestic violence show the biased attitude of men towards women. These are the registered but many cases remained unregistered due to socio-cultural environment against women. To sum up, the sole burden to implement the rights of women lies on religious sect. My humble request is to our religious scholars, they should preach for rights of women with practice by starting implementation of these rights at their home. The daughter of Muslim Ummah does not demand something extra or above nature. She demands just respect and acknowledgement of her services which she pays to her family. this will bring positive changes in our society. *Insha`-Allah.*

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<sup>100</sup>The World Book Encyclopedia (Chicago: World Book, Inc. 2006) 15:97;Dr. Nasrullah Khan Klair, Column, published in Daily Jang, 07-03-2010.

